

**DEPARTMENT OF ENERGY
FY 1999 CONGRESSIONAL BUDGET REQUEST**

PROPOSED APPROPRIATION LANGUAGE

Economic Regulation

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, [\$2,725,000] \$1,801,000, to remain available until expended.

**DEPARTMENT OF ENERGY
FY 1999 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION**

OFFICE OF HEARINGS AND APPEALS

PROGRAM MISSION

The Office of Hearings and Appeals (OHA) is responsible for all of the Department's adjudicatory processes. OHA was created to adjudicate cases arising under the Emergency Petroleum Allocation Act of 1973 (EPAA), and continues to conduct refund proceedings returning petroleum overcharge funds collected by the Department to parties who were directly injured by those overcharges, and to the states and federal government for indirect restitution. OHA continues to receive refund applications, although at a lower rate than in past years. OHA also continues to work on isolated matters connected with EPAA-related enforcement proceedings that are before the federal courts or that have been remanded to OHA. In addition, OHA continues to consider a significant number of Applications for Exception from the Congressionally mandated reporting requirements of the Energy Information Administration. That entity is funded through the Interior and Related Agencies Appropriations Bill.

Goal: The Goal of OHA is to continue to issue high quality, articulate decisions that fairly and equitably resolve the matters that are brought before it. In doing so OHA considers the Congressionally-mandated objectives implicated in each case and the interests of its customers, stakeholders and other concerned parties, including the public, state and federal governments, and the individual litigants.

Performance Measures & Accomplishments: OHA has been highly successful in fulfilling its mission. The primary quantitative performance measures are:

- Record on Appeal: OHA has had and projects that it will continue to have a singularly successful record of having its decisions upheld upon judicial review.
- Number of Cases Resolved: OHA resolved 2,963 refund claims during FY 1997, and expects to resolve 2,500 in FY 1998, and 1,500 in FY 1999.
- Distribution of Refunds: OHA has returned nearly \$5 billion in petroleum overcharge funds to individual refund applicants, the states and the federal government. During FY 1998, OHA expects to direct payment of more than \$150 million in overcharge funds.
- Public Availability of Information and Decisions: OHA makes all of its decisions available on the Internet to interested persons within one week of issuance. OHA provides public access through its home page to much of its refund application database.

DEPARTMENT OF ENERGY
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ECONOMIC REGULATION
(dollars in thousands)

PROGRAM FUNDING PROFILE

OFFICE OF HEARINGS AND APPEALS

Activity -----	FY 1997 Enacted -----	FY 1998 Request -----	FY 1999 Base -----	FY 1999 Request -----	Program Change <u>Request v. Base</u>	
					Dollar -----	Percent -----
Office of Hearings and Appeals						
Operating Expenses	\$ 2,727	\$ 2,725	\$ 2,725	\$ 1,801	\$ -924	-34%
Adjustment <u>a/</u>	- 2					
TOTAL	\$ 2,725	\$ 2,725	\$ 2,725	\$ 1,801	\$ -924	-34%
	=====	=====	=====	=====	=====	=====
Summary						
Operating Expenses	\$ 2,725	\$ 2,725	\$ 2,725	\$ 1,801	\$ -924	-34%
	-----	-----	-----	-----	-----	-----
Total Program	\$ 2,725	\$ 2,725	\$ 2,725	\$ 1,801	\$ -924	-34%
	=====	=====	=====	=====	=====	=====
Staffing — HQ FTEs <u>b/</u>	50	25	25	17		

Authorizations:

Pub. Law 95-91, DOE Organization Act; Pub. Law 99-509, Petroleum Overcharge Distribution and Restitution Act of 1986.

a/ Portion of prior year's unobligated balance that was used for EPAA-related activities.

b/ For FY 1997 includes all of OHA's FTEs (except those at the Board of Contract Appeals). For FY 1998 and 1999 includes only FTEs attributable to EPAA-related activities.

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FY 1999 OMB BUDGET REQUEST
ECONOMIC REGULATION
(dollars in thousands)

SUMMARY OF CHANGES

OFFICE OF HEARINGS AND APPEALS

FY 1998 Enacted	\$ 2,725
- Non-Discretionary	0
FY 1999 Base	\$ 2,725
Office of Hearings and Appeals	

- Reduction in case processing	\$ -924

FY 1999 CONGRESSIONAL Budget Request	\$ 1,801

**DEPARTMENT OF ENERGY
FY 1999 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION
(dollars in thousands)**

PROGRAM PERFORMANCE SUMMARY

I. Mission Supporting Goals and Objectives: Office of Hearings and Appeals

The Office of Hearings and Appeals (OHA) is an essential component of the Department's effort to equitably terminate the regulatory program implementing the Emergency Petroleum Allocation Act of 1973. OHA resolved the last compliance case under the regulatory program in FY 1996. However, the refund applications that OHA decides do not arise until after each individual compliance case is resolved. As a result, refunds of petroleum overcharges are the last portion of the original regulatory program that will be concluded. Through these refund proceedings OHA returns the moneys received in restitution for EPAA regulatory violations to those who were injured by the violations. Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), all funds remaining in a refund proceeding after all direct claims are satisfied are distributed to federal energy conservation programs as a means of providing indirect restitution to states and their citizens. These annual payments replace appropriated U.S. Treasury funding and have always been many times the size of OHA's budget in each year.

The largest ongoing refund proceeding is the crude oil proceeding, which distributes funds recovered by the Department arising from overcharges in the sale of crude oil. Because the regulatory program tended to equalize the cost of crude oil to refiners, overcharges on crude oil sales were passed through to the ultimate consumers of petroleum products. Twenty percent of crude oil overcharge funds are distributed to consumer claimants, including individuals, farmers, businesses, hospitals, school districts, cooperatives, public utilities, and governmental entities. Crude oil claimants receive a payment once their application is approved and supplemental payments as additional crude oil overcharge funds are collected by the Department. OHA divides the remaining 80 percent of crude oil overcharge funds equally between the states and the federal government for indirect restitution to injured consumers. OHA's goal has been to pay all valid claims and conclude the refund program as soon as circumstances permit. OHA also strives to promptly resolve all of the Applications for Exception from Energy Information Administration reporting requirements.

II. Funding Table: Office of Hearings and Appeals

Program Activity	FY 1997 Enacted	FY 1998 Request	FY 1999 Request	% Change
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Case Resolution				
Compliance and Refund Cases	\$ 2,727	\$ 2,725	\$ 1,801	-34%
	-----	-----	-----	-----
Subtotal, Case Resolution	\$ 2,727	\$ 2,725	\$ 1,801	-34%
Unobligated Balances	-2			
	-----	-----	-----	-----
Total, Office of Hearings and Appeals	\$ 2,725	\$ 2,725	\$ 1,801	-34%
	=====	=====	=====	=====

III. Performance Summary

Program Activity	FY 1997	FY 1998	FY 1999
Case Resolution	OHA resolved 2,963 refund claims in FY 1997 and refunded approximately \$28 million in direct restitution to these applicants. OHA's case closure rates for refund applications have declined substantially from prior levels, for a variety of reasons, principally funding and personnel restrictions, and increased case complexity.	OHA expects to resolve approximately 2,500 cases in FY 1998 and to refund about \$22 million in direct restitution to these applicants.	OHA expects to resolve approximately 1,500 cases in FY 1999 and to refund about \$11 million in direct restitution to these applicants.
Compliance & Refund Cases	OHA continued the distribution started in FY 1995 of \$265 million in supplemental refunds to applicants who had previously been granted crude oil refunds. OHA distributed \$5 million in supplemental refunds in FY 1997. OHA has completed the distribution of over 95% of the supplemental refunds.	OHA will conclude the distribution started in FY 1995 of supplemental refunds to applicants who had previously been granted crude oil refunds.	OHA will commence final payments to successful crude oil applicants. This is conditioned upon conclusion of all enforcement proceedings, so that OHA will know the total amount of crude oil overcharge funds that are available for distribution to injured claimants.

Program Activity	FY 1997	FY 1998	FY 1999
	<p>Pursuant to PODRA, \$30 million in overcharge funds that were not required for restitution to injured parties were declared excess and made available to state governments for use in four energy conservation programs. This was over ten times the amount of OHA's Interior appropriation. In addition, OHA expects that \$8 million in crude oil overcharge funds will be transferred to the miscellaneous receipts account at the U.S. Treasury to help reduce the federal budget deficit, and \$75 million in crude oil funds will be disbursed to the states.</p>	<p>Pursuant to PODRA, OHA released nearly \$21 million in excess overcharge funds to state governments for use in energy conservation programs. No estimate has been made at this time of the amount of crude oil overcharge funds that will be distributed to the states or made available to reduce the federal budget deficit. These amounts depend in part upon OHA's staffing levels and upon other matters beyond the control of OHA, such as the effect of court decisions and the amount of oil overcharges that are recovered by the Department and made available for distribution by OHA.</p>	<p>No estimate can be made at this time of the amount of funds that will be made available in FY 1999 under PODRA or the amount of crude oil funds that will be distributed to the states or made available to augment federal funding. However, in view of OHA's increasingly curtailed activities, it is likely to be significantly smaller than in recent years. Any PODRA distribution for the benefit of conservation programs will more than continue to offset OHA's appropriation.</p>

Program Activity	FY 1997	FY 1998	FY 1999
	<p>OHA continues to provide advice and litigation support to the Economic Regulatory Administration (now part of the Office of General Counsel) in cases where judicial review is sought of OHA compliance and refund determinations. OHA resolved the last compliance case in its inventory involving the regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973 in FY 1996. Unless additional cases are filed or remanded to OHA, this will have completed OHA's compliance work.</p>	<p>OHA is concluding a number of vigorously contested refund cases, some of which will be litigated. OHA will support that litigation effort.</p>	<p>OHA will continue to support and assist, as needed, in all litigation involving OHA compliance and refund decisions.</p> <p>To accomplish these goals, OHA requests minimum funding of \$1.801 million for personnel compensation (\$1,328K), travel (3K), and other services (\$470K). Other services include employee training (\$5K), and the Working Capital Fund for base services: rent, telephone, supplies, postage, building operations, equipment maintenance, printing, and Automated Office Support System support and maintenance (\$430K). OHA will also pay certain support services directly, including purchase of computer equipment and software, and contractual computer support (\$35K).</p>

Program Activity	FY 1997	FY 1998	FY 1999
			<p>To reduce staffing for this function from 25 to 17 FTEs, an involuntary reduction in OHA's workforce may become necessary. The cost of a RIF of up to six employees would reduce the funding available for personnel and may result in significantly fewer FTE's being devoted to this function. This could result in drastically reduced case closure rates and a delay of up to two years in bringing the refund program to a close.</p>